IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 3734 of 1999

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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VETERNITY OFFICER (MOBILE CLINIC) - Petitioner(s)

Versus

BALVANTRAI RANJITSINH HANDA - Respondent(s)

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Appearance :

MRS SANGEETA N PAHWA for Petitioner No(s).: 1.

RULE SERVED BY DS for Respondent No(s).: 1.

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 25/08/2005

ORAL JUDGMENT

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1. This petition is directed against the judgment and award dated 23rd December, 1998 passed by the Labour Court, in Reference [L.C.H.] No. 81/96, whereby the Labour Court has directed the petitioner to reinstate the respondent with continuity in service along with full

back wages.

2. The short facts of the case are that the respondent was working as a Driver with the petitioner on daily wage basis. It is the case of the petitioner that on availability of regular Driver he was relieved from the service w.e.f. 11th April, 1987. Feeling aggrieved by the said order, the respondent raised an industrial dispute which was ultimately referred to the Labour Court for adjudication. The Labour Court after considering the case on merits passed the impugned award. Hence, this petition.

3. Though served none appeared on behalf of the respondent. I have heard the learned counsel for the petitioner. Having perused the materials produced on record, it transpires that though notice was issued the petitioner has not remained present in the hearing. Thus, the fact remains that the petitioner was not heard before passing the order. Therefore, I am of the opinion that the petitioner is required to be given a chance of hearing. Accordingly, the impugned order is required to be quashed and set aside and the matter is remanded to the Labour Court for fresh decision.

4. In the premises aforesaid, on the facts and circumstances of the case, the impugned order passed by the Labour Court is quashed and set aside. The matter is remanded to the Labour Court for deciding afresh after hearing the petitioner. However the petitioner shall approach the Labour Court within one month from today and will file purshis for hearing of the Reference.

5. It is however clarified that the Labour Court shall hear and dispose of the Reference without being influenced by the earlier order which is quashed and set aside and also the present order, since the same has been passed without entering into the merits of the case. However, an amount of Rs.1500=00 [Rs. One Thousand Five Hundred only] which has been deposited vide order dated 3rd May, 2000 by way of costs, shall be paid to the respondent.

6. Rule is made absolute to the aforesaid extent.

[K.S. JHAVERI, J.]

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